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GEOFFREY G. WHY
COMMISSIONER

EX PARTE NOTICE

July 25, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: WT Docket No. 11-65, *Application of AT&T inc. and Deutsche Telekom AG For Consent to Assign or Transfer Control of Licenses and Authorizations Held by T-Mobile USA, Inc. and its Subsidiaries.*

Dear Ms. Dortch:

Enclosed for filing please find a redacted copy of the Massachusetts Department of Telecommunications and Cable (MDTC)'s June 20, 2011 Reply Comments submitted in the above docket. This redacted version is identical to the previous version filed on June 20 except for the removal of the numerical Herfindahl-Hirschman Index (HHI) values on pages 7, 9 and 10 of the original version, and for a caption change.

The MDTC was informed by the FCC's Wireless Telecommunications Bureau (Bureau) that the MDTC's original submission was deemed to have contained pieces of potentially confidential information in the form of HHI values. In an abundance of caution, the Bureau classified the entire filing as confidential and withdrew the entire filing from public view. This filing, however, was based not on confidential data subject to the protection orders issued in this docket.

Rather, as explained in the filing, the MDTC calculated the HHI values using Massachusetts-specific NRUF data for mobile wireless subscribers as of February 2011 using number utilization data obtained from the North American Numbering Plan Administration. These data fall outside the parameters of the non-disclosure orders filed in this matter and their aggregated computational form, reflected as HHI values, should not have been subjected to removal. Moreover, the conversion of the NANPA data into HHI values successfully cloaks the underlying market shares and customer numbers, which should receive confidential treatment.

The Massachusetts HHI values themselves need not be hidden from public view. The FCC already publicly displays national average HHI values in its Fourteenth Annual Report on mobile

wireless.¹ The MDTC HHI values reflect data aggregated at the statewide level and at an enhanced (larger than) NPA level. Massachusetts has a sufficient number of wireless competitors reflected in the data such that revealing the effect of combining two carriers will not reveal either the market shares or the customer bases of the remaining competitors.

Furthermore, MDTC analysis of additional publicly-available thousand block and central office code (CO) assignment data for Massachusetts² confirms the overall results of the MDTC's HHI analyses -- that the Boston Metro economic area and the total Massachusetts economic area will experience significant potential anticompetitive impacts due to the AT&T/T-Mobile merger.

These analyses, both public and presumed confidential, demonstrate the need for the Commission to subject this merger to heightened scrutiny and perform a rigorous, market-specific review of its impacts on Massachusetts' wireless voice and broadband markets. Finally, the FCC should allow additional process and opportunities for further review and comment as the FCC moves forward in its review. Accordingly, the MDTC respectfully requests the Commission to reconsider its classification of the June 20 comments and permit the MDTC to file its full reply comments in a public format.

¹ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fourteenth Report, WT Docket No. 09-66, FCC 10-81 ¶ 296 (rel. May 20, 2010) (*Fourteenth Report*), Table 3 ("Mobile Wireless Subscribers: Selected Facilities-Based Service Providers"), p. 31.

² See <http://www.nationalpooling.com>, Reports/Bocks AV, AS, RT for thousand block assignment data; see also <http://www.nanpa.com>, Reports/Central Office Codes/Central Office Code Utilized Report for CO Code assignment data.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office and sent via email to the individuals specified in the April 28, 2011 Public Notice.

Respectfully submitted,

GEOFFREY G. WHY, COMMISSIONER

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